



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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ASPHALT MIXED AT PIT SITE

Issued December 28, 1967

Is the measure of Use Tax the value of asphalt paving mix materials or the value of prepared mix as delivered to the job?

The Department has uniformly ruled that where building materials or components are fabricated at a plant located off the job, Use Tax must be measured by the value of the fabricated material, including the labor of preparation, as distinct from the mere value of the raw materials. Conversely, it has held that mixing, fabricating or preparing done at the site of the job was inseparable from other work performed in connection with the construction, repairing or improving of a publicly owned road and, hence, that the Use Tax would be applicable only to the value of the materials delivered to the job site.

The taxpayer, an asphalt paving contractor, claimed certain discriminations, pointing out that concrete mixes are generally prepared at job site while asphalt paving materials are nearly always mixed at a pit located some distance from the job. Thus, under the ruling cited above, an asphalt paving contractor is required to pay Use Tax upon the value of the prepared mix while the concrete paving contractor pays only on the value of the raw materials. The taxpayer suggested that the definition of the term "job site" as the term affects the Use Tax liability of persons performing contracts to pave publicly owned roads, highways, bridges, etc., with asphalt or concrete mixes be extended. The Department of Revenue ruled that it would accept the value of materials as the measure of the Use Tax in limited cases where asphalt or concrete mixes are prepared by the contractor at temporary sites even though not on the site of the construction. It ruled that the term "job site" will include asphalt and concrete mixing plants temporarily located for the primary purpose of servicing one or more particular public road construction contracts previously awarded to the contractor. The site of such plants need not be adjacent to the public road, highway or bridge which is being constructed or improved, but must bear a reasonable relationship to the location of the job to be serviced. The term will not include mixing or processing plants which have a permanent fixed location and/or which serve other contractors or the public generally.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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Where processing is done under conditions which do not exactly comply with the limitation set forth above, the Use Tax will be applicable to the value of the prepared mix including the labor and services of mixing. (Letter.)